UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

FRITZ G. BLUMENBERG,

Defendant.

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01 Cr. 571 (JGK)

MEMORADUM OPINION AND ORDER

JOHN G. KOELTL, District Judge:

The defendant seeks an order pursuant to Rule 40 of the Federal Rules of Criminal Procedure to "Apprehend and to Lastly File All Authentic, Unredacted, or Returned Arrest Warrants Pursuant to Rule 40 to Cure the Defective Public Court Record." A copy of the request is attached. There is no basis for the request.

The defendant was convicted pursuant to his plea of guilty, and judgment was entered in 2003. The sentence was affirmed on appeal, and numerous subsequent applications have been denied. There is no pending application. There is no basis for the defendant's request and no pending proceeding as to which it would be relevant. The defendant also has failed to show good cause for the relief he seeks.

The defendant's application is therefore denied.

SO ORDERED.

Dated: New York, New York
October 28, 2014

_____/s/_____
John G. Koeltl
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

----------x (via fax 212-805-7912 to Chambers 10-26-2014 & mail)

UNITED STATES OF AMERICA,

Plaintiff,

01 Cr 00571 -001 (JGK)

v.

APPLICATION FOR AN ORDER TO APPREHEND AND TO LASTLY FILE ALL AUTHENTIC, UNREDACTED, OR RETURNED ARREST WARRANTS PURSUANT TO RULE 40 TO CURE THE DEFECTIVE PUBLIC COURT RECORD

FRITZ G. BLUMENBERG, ~~JOHN C. LEE~~, CHRISTIAN T VIERTEL, Defs

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APPLICATION IS HEREBY MADE TO DIRECT THE NYSD CLERK, PLAINTIFF UNITED STATES AND ITS AGENTS TO DISCLOSE DEFENDANT'S ORIGINAL "WARRANT" or "Quasi-warrant", which did cause defendant's arrest and shackling followed by interstate transport from New Jersey to Manhattan on June 19, 2001 before 07:00 a.m. - a time precedent to the initial overtly unsealed filing and OPENing of this CASE on June 19, 2001 by an [S-Zero] inaugural INDICTMENT against him, "*OR [to disclose] A CERTIFIED COPY THEREOF*".

A. LAW

For the instant PRO SE submission to be duly respected, satisfied and not abusively shunned, this Court holds ample discretion [despite pendency of Appeal 14-2988], and, moreover, this Court possesses ample REASON to support such simple, reasonable and lawful request, on the basis of "**GOOD CAUSE**" [see citing "JGK-Selfie-missive" in Garafola v. U.S., 909 F.Supp. 2nd 313], also,

a) because Clerks under Chief Clerk Krajick repeatedly **ignored mailed and emailed requests**, permitted instructions to the Pro Se office to obstruct, to not file certain "uncomfortable" or flagged submissions and to "check up & seek pre-approval from

Chambers" , altogether acts in violation of Court Rules and contrary to the Oath of Clerk[1].

b) Another very **GOOD CAUSE** lies in what Justice O'Connor, with whom Justice Kennedy joined, held in St. Ct 96-643 [quoting Norton v. Mathews, 427 U. S. 524, 532 (1976)]:

> may well have redressed the asserted injury.
>
> I also agree with the Court's statement that federal courts should be certain of their jurisdiction before reaching the merits of a case. As the Court acknowledges, however, several of our decisions "have diluted the absolute purity of the rule that Article III jurisdiction is always an antecedent question." *Ante*, at 16–17. The opinion of the Court adequately describes why the assumption of jurisdic-

"**Hypothetical jurisdiction** *produces nothing more than a* **hypothetical** *judgment -- which comes to the same thing as an advisory opinion, disapproved by this Court from the beginning*", see *Muskrat v. United States*, 219 U.S. 346, 362

c) Particularly **GOOD CAUSE** here in 01-cr-571, a case with an anytime opportunity to challenge [2], ad absolutum, Art. III JURISDICTION, and not ***only because of the good fortune to demonstrate to the citizenry*** how and why the UNITED STATES' branch No. II turned **FRIENDLY FIRE** on "No. III", the Judiciary Department, and *further wrecked* their country's reputation, while pulling away the jurisdictional [prayer] rug from under the III.'s bench.

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[1] 28 USC §951: Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: *"I, XXX, having been appointed XXX, do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God."*

[2] None of the statutory procedures are to be met, as JURISDICTION can neither be waived nor squandered by [IAC] inept Counsel nor do such challenges have a time-bar – *"rush me not"* is the applicable Rule of Law.

d) Another **GOOD CAUSE** remains, in that Applicant's [effectively withdrew, and certified its disowner-ship] his mislabeled "*guilty plea*" [**http://bit.ly/1pIDvcb**] which faltered altogether for what has now reached an even higher level of delinquency: "*for unintelligence, for factual error, for fraud by and upon the Court, and for failure to show a valid, independent basis in facts which could reconcile with corporate realities*"; **in fact**, it was replete with paranoid theory, inept & corrupt prosecutorial, court-administrative and judicial fabrications, which came to "*life*" even before an INAUGURAL[3] "FILED DATE". A confederated artifice, that became, before the Court's own "Gate Opened", a still ongoing - "efficacious" -conspiracy against the United States et al , shepherded along with official rigging, official denial and COVER UP of an unlawful, indefensible **backdate scheme** designed to constitutionally and substantively INJURE and WOUND the targets over "acts" that were factually time-bared, and – the Court had ample notice – were phony baloney[4].

e) These official acts of prejudicial misconduct rose to a repugnant demonstration of **disrespect** for GRAND JURY authority over GRAND JURORS exclusive decision *not to concur too soon or without probable cause*, and certainly not to concur on bogus theories on a "date" [of June 14, 2001], which Mary J. White's team had earmarked for the sole purpose of ramping up the federal threat to, the personal agony for and the intended über-punishments and deportations for two legal aliens, obviously a malicious enterprise to trespass the 5 year limitation Congress set in 18 USC §3282.

f) More **GOOD CAUSE** rests in the violations of the Court's sanctum duty to alert the defense and the Petit Jury to the forgeries, to its own "probable" lack of jurisdiction, and to the inconsistencies created by dubitable filings, missing records, missing seals,

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[3] **Case title: USA v. Blumenberg, et al Date Filed: 06/19/2001** [sic]

[4] This Court has full knowledge learned from FBI witness & ample record that a charged "Agate Invoice" was NOT yet designed nor had been printed by BURDA on June 17, 2001 and therefore could not furnish the "Act of conspiratorial submission" to BURDA, neither by this Applicant nor by Mr. Viertel, who – 4K miles away in France - could not have been *foresighted* that a novel "$8,120.00 Agate Invoice" was – 5 days later - papering over a legit, earlier, generic payment of $8,120 10 . Proctor Mark Harris, a/k/a "*Warrant Forger*" (GJ Transcript 6/6/2002 Pg 57). "*Well, it doesn't matter*". In fact, it does.

and a Magistrate, who certified [DOC#2] that ***"he blew the seal"*** of something fictitious, that has not turned up yet nor was ***"for real"*** on inaugural day JUNE 19, 2001. That this Court violated that sanctum duty repeatedly and added delay, over denial and insult to injury are facts in support of this application.

g) **GOOD CAUSE** is also established where *"specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is ... entitled to relief." Drake v. Portuondo*, 321 F.3d 338, 345 (2d Cir.2003) (quoting *Bracy*, 520 U.S. at 908 _09, 117 S.Ct. 1793). This Applicant seeks ~~broad~~ very limited [*but certainly very worthy*] discovery by ~~without~~ making specific ~~far-reaching~~ allegations that the requested evidence will show reason to believe that ~~he is entitled~~ a broad ENTITLEMENT to RELIEF is warranted, and all "*Bad Guys*" , "*Bad Guys*" and "*Bad Guys*" (JComey 2.0 @ brookings) should be held to account if they did not hold "*lawful authority*", "*lawful authority*" or "*lawful authority*"(JComey, intra) .

h) This is not a revived "*fishing expedition*" but a - **oftimes** officially sabotaged – lawful, reasonable effort to uncover the ongoing ***"government assassination of facts"*** – an attempt, pursuant to the RULE OF LAW, specifically targeted at a few huge AB OVO DUE PROCESS violations, at judicial usurpation and at transgressions, at a clerical hood-winking rubber fetish, and at serial malicious, unconstitutional prosecutorial misconduct, thus of particular public IMPORTANCE[5].

B. To WIT: Rule 40 states in relevant parts:

(1) *Warrant*. A warrant must:

(A) contain the defendant's name or, if it is unknown, a name or description by which the defendant can be identified with reasonable certainty; (B) describe the offense charged in the complaint; (C) command that the defendant be arrested and brought without unnecessary delay before a magistrate judge or, if none is reasonably available, before a state or local judicial officer; and (D) be signed by a judge.

(Notice to the illegally blind: A fake signature rubber stamp by a fictitious un-deputized latina "*clerk*", does not fill this bill)

(4) *Return*

[5] [while in a few days the 225th Anniversary of this peerless "Mother Court" coming up]

(A) After executing a warrant, the officer must return it to the judge before whom the defendant is brought in accordance with Rule 5. The officer may do so by reliable electronic means. At the request of an attorney for the government, an unexecuted warrant must be brought back to and canceled by a magistrate judge or, if none is reasonably available, by a state or local judicial officer.(B) The person to whom a summons was delivered for service must return it on or before the return day.(C) At the request of an attorney for the government, a judge may deliver an unexecuted warrant, an unserved summons, or a copy of the warrant or summons to the marshal or other authorized person for execution or service.

Rule 9(b) FORM.

(1) *Warrant.* The warrant must conform to Rule 4(b)(1) except that it must be signed by the clerk and must describe the offense charged in the indictment or information.

[Notice to the illegally blind: "undeputized" rubber-stamps & Robo-"Signers" *Do not create lawful authority*]

* * *

C. What is being asked from this Court now?

Direct the government to LOCATE and lastly FILE the Arrest Warrants, just as the LAW commands!

As a ***pro se***'s courtesy to the **Judiciary Department** sworn to follow the **RULE OF LAW** in application and sustenance under such RULE, CODEX and lawyerly BAR Ethics, under an openly verifiable, fully compliant PRACTICE of LAW, Applicant hereby proffers **assistance to locate, apprehend and thereby identify and lastly FILE** these – assumedly – "*mis-handled A/Warrants*" in the PUBLIC RECORD to lastly ascertain whether these SPECIMEN were "veritable, under lawful authority", were "forgeries" and were perhaps "squandered to stay AWOL" in execution to improperly "cover up" premeditated prejudice against "presumptively innocent" targets, inclusive of Applicant.

Furthermore, the FBI must keep, without doubt, a **copy** on File (FBI # NY-279333) of all three "Warrant" SPECIMEN and their appendage "routine" transmissions – see partial snapshots below – [while it becomes clear that only an abettor could send incontrovertibly deceptive wires routinely to peer FBI residencies in foreign judicial districts as on June 15, 2001], albeit – possibly - upon direction by USANYS, their "*best client*", to not upset.

"***INTEGRITY***", a front-page FBI MOTTO, seems just a RUSE to deceive the public's perception. (JComey 2.0, intra, see also: **DOMESTIC INVESTIGATIONS AND OPERATIONS GUIDE**[6]

But there are more strong "leads" that these WARRANTS exist, for sure at the FBI, because "*acting assistant FBI director in charge" John A. Klochan* stated in an official letter to the Consul General [of the Federal Republic of Germany] that

"... arrest was based on a Federal arrest warrant issued in New York resulting from an investigation by the FBI's New York office..."

Klochan would certainly have followed the MANUAL, ascertained the lawful existence of and authority for issuance of such "Warrants" and is under duty to not lie to a foreign sovereign [rhetorical: would he dupe anyway?].

HINT: **Not to forget to DIRECT the Court's own IMPARTIAL PROBATION DEPARTMENT to comb their FILES**, which – in 2003 - resulted in Applicant's [sealed] PSR, that – Applicant submits, was unlawfully altered in regards to Arrest and Arraignment and was unlawfully influenced by the plaintiff – in violation of due process, to help "*cover up*" both very exculpatory time-barred June 1996 "acts" and some original JUNE 2001 FILING DELINQUENCIES, demonstrated by the vacuum of any record of judicial PROCEEDINGS, FILINGS or SEALINGS on June 14, 15, 16, 17, 18, 2001. The presumptively "impartial" PROBATION DEPARTMENT seems to have been badly corrupted during the process, and shall, as a consequence, withdraw its PSR's, *nunc-pro-tunc*, or face legal pursuit in due course.

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[6] DIOG page 2:

PRIVILEGED INFORMATION:

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Below two specimen (redacted and emphasized for better understanding)

(Rev. 10-01-1999)

FEDERAL BUREAU OF INVESTIGATION

Precedence: PRIORITY Date: 06/15/2001

To: Newark Attn: Garrett Mountain RA
SSA [redacted]

New Haven Attn: Bridgeport RA
SSRA [redacted]

Miami Attn: Palm Beach RA
SSA [redacted]

From: New York
Squad C-12, BOMRA
Contact: SA [redacted] Connor O'Sullivan *

Approved By: [redacted]

Drafted By: [redacted] cmo

Case ID #: 196D-NY-279333 (Pending)

Title: Fritz G Blumenberg * FUGITIVE (B); 3 FUGITIVES ? fromJustice ?
John Lee - FUGITIVE (B);
[redacted] - FUGITIVE (B);
BURDA MEDIA INC. - VICTIM;
MP, PBW
OO:NY

Synopsis: Locate and apprehend [redacted]

Administrative: Reference telephone calls on 06/15/01 from SSA [redacted] SSA [redacted] Principal Relief Supervisor [redacted] (Bridgeport RA) and SSA [redacted]

Enclosures: 1) Enclosed for Newark are the following:
a) Copy of an arrest warrant for Fritz G Blumenberg issued in the Southern District of New York
b) Copy of the Indictment charging Blumenberg

2) same for John Lee for New Haven

3) Enclosed for [redacted] are the following:
a) Copy of an arrest warrant for [redacted]
issued by the Southern District of New York.
b) Copy of the Indictment charging [redacted]

UPLOADED
WITH/TEXT
WITHOUT/TEXT
BY
DATE 6-15-01

egbacon.wpd

Leads Set 6-15-01

* Name INSERTED
RECOVERED SPECIMEN

and

To: Newark From: New York
Re: 196D-NY-279333, 06/15/2001

From Squad C-12 BQMRA

b6

b3 (FRCP) Rule 6(e)

Details: An investigation was conducted by the New York Office of the FBI regarding possible mail and wire fraud charges against [redacted] in his capacity [redacted] BURDA MEDIA INC. The investigation revealed that [redacted] BURDA MEDIA INC. and its parent company, BURDA HOLDINGS GMBH, out of millions of dollars over a period of years.

On 06/14/2001, a Federal Grand Jury returned an [redacted] against [redacted] b3 Arrest warrants have been issued by the Southern District of New York charging BLUMENBERG [redacted] with Title 18 USC Section 371 (Conspiracy), Title 18 USC 1343 (Wire Fraud) and Title 18 USC 1341 (Mail Fraud).

[redacted] regularly. In order to avoid flight, attempts should be made to arrest all subjects on the same day, 06/19/2001.

The Assistant United States Attorney (AUSA) assigned to this matter is Mark Harris, Southern District of New York (SDNY). Harris can be reached at (212) 637-2488.

Name Inserted

D. **TO WIT:**

In this context, facts are, that at least 9 known [Connor M. O'Sullivan, John A. Klochan,

Date dictated 6/20/01

y SA STEPHEN A. LUCCHESI, SA KEVIN RANIERI, SA JOSEPH G[illegible] SCONZO

196D-NY-279333

his document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to and its contents are not to be distributed outside your agency.

SA-6, SA-7, SA-8, SA-9] FBI operatives ACCEPTED that three – unindicted - targets were "LEAD SET" FOR APPRHENSION as **FUGITIVES** [B] FROM JUSTICE, which satisfies the "BAD FAITH ANALYSIS". Regrettably, this Court eagerly buttressed BAD FAITH as yet another unconstitutional "***bar-member kowtow***" to the upper branch.

Why is that so?

A "FUGITIVE" designator, once lawfully authorized (in 01-cr-571 it was not authorized, not even under application, see AO 257 – another puzzle piece that took 4 ½ years to uncover), is a complex means to "toll statutory limitation".

OYEZ: If an indictment is not FILED – "***alleging and proving at least one over act that occurred within***" the statute of limitations [*U.S. v. Mercedes*, 287 F.3d 47, 54 quoting *Toussie v. U.S.* , 397 U.S. 112, 115 (1970)] - for whatever reason - by the last day of the statute of limitations 18 USC §3282 [JUNE 17, 2001 – the "overt act" (b) created for June 18, 1996 was more than utter absurdity], then the indictment (or those counts) will be time-barred unless branch II can establish, that it effectively tolled the statute.

U.S. v. FLOREZ, 447 F.3d 145, 149 (2d Cir. 2006)

1. *The Burden of Proof and Standard of Review*

To toll a statute of limitations, it is the government's burden to show that a defendant was "fleeing from justice." 18 U.S.C. § 3290. In *Jhirad v. Ferrandina*,

But even more devastating to the government's FUGITIVE RUSE, and more shameful to this Court's deliberate silence is:

U.S. v. FLOREZ, 447 F.3d 145, 150 (2d Cir. 2006)

351 Drawing from this language, most courts, including our own, have concluded "that a person's mere absence from a jurisdiction is insufficient, by itself, to demonstrate flight under § 3290 (or its statutory predecessor); there must be proof of the person's intent to avoid arrest or prosecution. As we observed in *Jhirad v. Ferrandina*, in the context of an extradition proceeding, "the phrase 'fleeing from justice' carries a common sense connotation that only those persons shall be denied the benefit of the statute of limitations who have absented themselves from the jurisdiction of the crime *with the intent of escaping prosecution*." 486 F.2d 442, 444-45 (2d

To make matters understood clearly, what happened here in 2001 was a textbook BAD FAITH confederacy, because USA White **FIRST** pulled off this nefarious FUGITIVE trickery as a fall-back scenario, in case the schemers at her U.S. Attorney Office could not recruit at least one greased corrupt CLERK with sticky fingers on a rubberstamp to backwards-date a time-barred "CONSPIRACY §371" (Count 1) indictment when it was really filed JUNE 19, 2001, and on **SECOND** guess, if the USAO would fail to timely draft a amoral Bar-Member ***paraclete*** to officiate himself onto a bogus filing [DOC#2 in 01-cr-571), which her USAO had hatched to really "***pucker the bejesus***" out of the RULE OF LAW.

Applicant has made a substantial showing of the denial of a constitutional right and several correctable deficiencies in the COURT's PUBLIC records that this APPLICATION shall reasonable be granted forthwith in the interest of justice and for transparency required in the administration of justice, particularly if abused against ALIEN targets.

An Affidavit in Support of this Application is being submitted under separate cover.

Submitted this 26th day of October, 2014

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Original hard copy, email was served this day upon preet.bharara@usdoj.gov , michael.levy@usdoj.gov

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